



# Fire Services Act 1947

1947 CHAPTER 41 10 and 11 Geo 6

*Pensions etc.*

## 26 Firemen's Pension Scheme.

- (1) The Secretary of State may by order bring into operation a scheme, to be known as the Firemen's Pension Scheme, whereby provision is made, subject to the provisions of this section and of the Scheme, for the payment by fire authorities and such other authorities as may be specified in the Scheme of pensions, allowances and gratuities to persons employed as members of fire brigades maintained in pursuance of this Act who retire from such employment on or after the appointed day or die on or after the appointed day while so employed, and to their widows, children and dependants.
- (2) The Firemen's Pension Scheme (hereafter in this and the next following section referred to as "the Scheme") may include provision—
  - (a) for defining the classes of persons employed as aforesaid in respect of whose service awards, or awards of any class specified in the Scheme, may be made under the Scheme, and in particular for excluding in relation to any such awards or class of awards persons who are not wholly and permanently so employed or who are so employed on such ancillary duties as may be specified in the Scheme, and for treating, for all or any of the purposes of the Scheme, employment in Great Britain or elsewhere on duties connected with the provision of fire services, being employment (otherwise than as a member of a fire brigade maintained in pursuance of this Act) of such classes as may be specified in the Scheme, as if it were employment as a member of such a brigade;
  - [<sup>F1</sup>(aa) where a person immediately before he undertakes service of a description specified in the First Schedule to the <sup>M1</sup>Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, or attends for hourly instruction as defined in section forty-two of that Act, either—
    - (i) is a member of a fire brigade maintained in pursuance of this Act, or
    - (ii) is employed in employment on duties connected with the provision of fire services which is treated for the purposes of the Scheme as if it were employment as a member of such a fire brigade,

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for treating employment during the period of his service or instruction, and during such further period, if any, as may be specified in the Scheme, as employment as a member of such a fire brigade.]

- (b) for reckoning, for all or any of the purposes of the Scheme, such employment, whether before or after the appointed day (other than employment as a member of a fire brigade maintained in pursuance of this Act) as may be specified in the Scheme as if it were employment as a member of such a brigade, either unconditionally or subject to such conditions as may be so specified and either as respects the whole of service in employment so specified or as respects such fraction thereof as may be so specified;
- (c) for the making by persons in respect of whose service awards may be made under the Scheme of such contributions as may be specified by the Scheme, and, in such circumstances as may be so specified, for the repayment of contributions so made or their application in such manner and for the benefit of such persons as may be so specified;
- (d) for substituting, for all or any of the purposes of the Scheme, the Secretary of State for a fire authority in relation to any [<sup>F2</sup>employment which is treated for the purposes of the Scheme as if it were employment as a member of a fire brigade maintained in pursuance of this Act];
- (e) for the making to a fire authority by the Secretary of State or another fire authority, or by any other authority by which a person has been employed in employment specified under paragraph (b) of this subsection or which has incurred any liability in respect of the payment of a pension in the event of a person's retirement from employment so specified of payments in respect of previous service (whether before or after the appointed day) on a person's entry on employment with the fire brigade maintained by the first-mentioned fire authority, and for the making to the Secretary of State by a fire authority or any such other authority as aforesaid of payments in respect of previous service (whether before or after the appointed day) on a person's entry on [<sup>F2</sup>employment which is treated for the purposes of the Scheme as if it were employment as a member of a fire brigade maintained in pursuance of this Act];
- (f) for the reimbursement of payments under the last foregoing paragraph out of any superannuation fund to which contributions have been made in respect of the previous service to which the payments related;
- (g) for the making, where a person enters on employment with a fire authority in a case where no payment falls to be made under paragraph (e) of this subsection, of payments in respect of previous service with that authority out of any superannuation fund to which contributions have been made in respect of the previous service;
- (h) for the conditions as to evidence or otherwise subject to which any award under the Scheme may be made, for the manner in which any question specified in the Scheme arising under the Scheme is to be determined, and for appeals from determinations of any such question;
- (i) for excluding or modifying, in the case of an injury in respect of which an award is made under the Scheme, being an injury sustained in the execution of duty in such circumstances as may be specified in the Scheme, any other right against the Crown or other authority in whose employment the injury occurred to compensation or damages in respect of the injury or the consequences thereof, so however that no provision made by virtue of this paragraph shall affect any right under the [<sup>F3</sup>enactments relating to . . . <sup>F4</sup>social security];

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- (j) for such incidental and supplemental matters as appear to the Secretary of State expedient for the purposes of the Scheme, including provisions as to funds for defraying liabilities under the Scheme and provision for the like purposes as under the enactments in the <sup>M2</sup>Fire Brigade Pensions Act 1925, specified in the first column of the Third Schedule to this Act (which relate to the matters specified in the second column of that Schedule) was made in relation to awards under the said Act of 1925.

In this section the expression “employment” includes engagement in any service.

[<sup>F5</sup>(2A) The Scheme may also include—

- (a) such provision for the payment of pensions, allowances and gratuities to persons employed as members of fire brigades maintained in pursuance of this Act who are dismissed from such employment, and to their widows, children and dependants, as will enable the Scheme to comply with the requirements set out in Schedule 16 to the <sup>M3</sup>Social Security Act 1973, and
- (b) such provision incidental or supplementary thereto as appears to the Secretary of State to be expedient.]

(3) . . . . . <sup>F6</sup>

(4) If a person obtains or attempts to obtain for himself or any other person—

- (a) any award under the Scheme, or
- (b) any sum in respect of the repayment or application of contributions made under the Scheme,

. . . <sup>F7</sup> by maiming or injuring himself, or causing himself to be maimed or injured, or otherwise producing disease or infirmity, . . . <sup>F7</sup>, he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty-five pounds, and (without prejudice to the provisions of paragraph (j) of subsection (2) of this section) the Scheme may authorise, in the case of a person who has been convicted of an offence under this subsection, the forfeiture, in whole or in part, of any award or sum so obtained.

(5) The Scheme may be varied by a subsequent order of the Secretary of State under this section.

(6) Any order under this section shall be made with the approval of the [<sup>F8</sup>Minister for the Civil Service], and after consultation with the Central Fire Brigades Advisory Council.

#### Textual Amendments

- F1** S. 26(2)(aa) inserted by Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65), ss. 42(1)
- F2** Words substituted by Fire Services Act 1951 (c. 27), s. 1(3)
- F3** Words substituted by Social Security Act 1973 (c. 38), Sch. 27 para. 6
- F4** Words repealed by Social Security (Consequential Provisions) Act 1975 (c. 18), Sch. 1 Pt. 1
- F5** S. 26(2A) inserted by S.I. 1976/551
- F6** S. 26(3) repealed by Superannuation Act 1972 (c. 11), ss. 16(2), 29(4), Sch. 8
- F7** Words repealed by Theft Act 1968 (c. 60), Sch. 3 Pt. 1
- F8** Words substituted by virtue of S.I. 1968/1656, arts. 2(1)(e), 3(2)

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#### **Modifications etc. (not altering text)**

- C1** S. 26 amended by [Fire Services Act 1951 \(c. 27\)](#), [s. 1\(1\)\(2\)](#), and [Superannuation Act 1972 \(c. 11\)](#), [s. 16\(1\)\(3\)](#)
- C2** S. 26(2)(c)(5) extended by [Fire Services Act 1959 \(c. 44\)](#), [s. 8\(3\)\(2\)](#) respectively
- C3** References in s. 26(2)(d)(e) to Secretary of State to be construed as references to either Secretary of State or Minister of Overseas Development: [S.I. 1974/1264](#), [art. 2\(2\)\(c\)](#), [Sch. Pt. III para. 9\(a\)](#)

#### **Marginal Citations**

- M1** 1951 c. 65.
- M2** 1925 c. 47.
- M3** 1973 c. 38.

## **27 Firemen's Pension Scheme to supersede other statutory schemes.**

- (1) As respects any person retiring on or after the appointed day from employment as, or employment which for the purposes of the Scheme is to be treated as employment as, a member of a fire brigade maintained in pursuance of this Act, or dying on or after the appointed day while in such employment, the Scheme shall, subject to the provisions of this section, have effect to the exclusion of any other provision for pension, allowance or gratuity in respect of such employment contained in or in force under any enactment.
- (2) Where—
- (a) immediately before the appointed day there are in operation by virtue of any enactment (other than an enactment contained in the <sup>M4</sup>Fire Brigades Pensions Act 1925), any arrangements for the grant of pensions, allowances or gratuities in respect of members of a fire brigade maintained in pursuance of the <sup>M5</sup>Fire Brigades Act 1938 (in this subsection referred to as “the former brigade”); and
  - (b) the Government Actuary certifies that the Scheme, if modified by reference to the arrangements so as to have effect subject to such modifications as are mentioned in the next following subsection, would be on the whole not less favourable than the Scheme not so modified,
- then if any person—
- (i) who was a member of the former brigade immediately before the eighteenth day of August, nineteen hundred and forty-one; or
  - (ii) who by virtue of having been a member of the former brigade was designated under paragraph (1)(b) of regulation 3 of the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations 1941, as a person in whose case those regulations should have effect; or
  - (iii) who immediately before the said eighteenth day of August was engaged in service or work in such circumstances that under the <sup>M6</sup>Police and Firemen (War Service) Act 1939, his service or work fell to be treated as a period of approved service in the former brigade; and
  - (iv) who in any case becomes on the appointed day or on the termination thereafter of such service or work as aforesaid a member of the former brigade,
- gives notice in that behalf to such authority and within such period as may be specified by the Scheme, the Scheme shall have effect in his case, so long as he remains a member of the former brigade, subject to the said modifications.

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(3) The modifications referred to in the last foregoing subsection are such modifications as will secure that subject to the following provisions of this section—

- (a) as respects superannuation awards, the Scheme contains the like provisions in respect of the persons entitled to awards, the conditions entitling persons to awards, and the amounts of awards, as the arrangements mentioned in paragraph (a) of the last foregoing subsection;
- (b) as respects injury awards, an authority making an award under the Scheme may, in any case in which it appears to them that an award under the said arrangements would have exceeded the award under the Scheme, increase the award under the Scheme by an amount not greater than the excess, as estimated by the authority;
- (c) as respects the rates of contributions to be made by persons in respect of whose service awards may be made, the rates shall be the same as under the said arrangements, subject to such abatement as may be provided by the Scheme for offsetting any provisions of the Scheme having effect by virtue of subsection (5) or (6) of this section in cases where those provisions apply.

In this subsection the expression “injury award” means a pension, allowance or gratuity in respect of death or incapacity of mind or body occasioned either by an injury received in the execution of duty without the default of the person injured or in such circumstances that the Scheme, apart from the foregoing modifications, applies in like manner as if it had been occasioned by an injury so received; and “superannuation award” means a pension, allowance or gratuity other than an injury award.

(4) For the purposes of subsection (2) of this section, a fire brigade maintained in pursuance of the <sup>M7</sup>Fire Brigades Act 1938, for any area and a fire brigade maintained in pursuance of this Act for that area, or an area including that area, shall be treated as one.

<sup>F9</sup>(5) .....

<sup>F10</sup>(6) .....

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**Textual Amendments**

**F9** S. 27(5) repealed by [Social Security Act 1973 \(c. 38\)](#), **Sch. 28 Pt. I**

**F10** S. 27(6) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), **Sch. 1 Pt. XI**

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**Modifications etc. (not altering text)**

**C4** S. 27 amended by [Fire Services Act 1951 \(c. 27\)](#), s. 2(1)—(3)

**C5** S. 27(2) amended by [Fire Services Act 1959 \(c. 44\)](#), s. 8(4)

**C6** S. 27(5): power to continue conferred (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c.6\)](#), ss. 5, 7(2), **Sch.3 Pt. II para. 15**

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**Marginal Citations**

**M4** 1925 c. 47.

**M5** 1938 c. 72.

**M6** 1939 c. 103.

**M7** 1938 c. 72.

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VALID FROM 21/05/1997

**[<sup>F11</sup>27A Information in connection with firemen's pensions etc.**

- (1) A fire authority may in prescribed circumstances—
- (a) provide information in connection with the questions specified in subsection (2) below to a prescribed person; and
  - (b) require that person to pay a reasonable fee in respect of any administrative expenses incurred in providing that information.
- (2) The following are the questions mentioned in subsection (1) above—
- (a) whether an individual who has opted or transferred out has suffered loss as a result of a contravention which is actionable under section 62 of the <sup>M8</sup>Financial Services Act 1986 (actions for damages in respect of contravention of rules etc. made under the Act), and
  - (b) if so, what payment would need to be made in respect of that individual to the fire authority concerned to restore the position to what it would have been if that individual had not opted or transferred out.
- (3) Where—
- (a) an individual who has opted or transferred out becomes entitled to make contributions under the Scheme to a fire authority, or
  - (b) a payment is made to a fire authority in respect of such an individual for the purpose mentioned in subsection (2)(b) above,
- the fire authority may require a prescribed person to pay a reasonable fee in respect of any administrative expenses incurred in connection with that entitlement or payment.
- (4) For the purposes of this section, an individual shall be taken to have opted or transferred out if—
- (a) for any period during which he is a member of a fire brigade maintained in pursuance of this Act, he does not make contributions under the Scheme but instead makes contributions to a personal pension scheme; or
  - (b) a transfer value is paid in respect of the individual by a fire authority to a personal pension scheme.
- (5) In this section—
- “personal pension scheme” has the meaning given by section 1 of the <sup>M9</sup>Pension Schemes Act 1993;
- “prescribed” means prescribed by regulations made by the Secretary of State under this section;
- “the Scheme” has the same meaning as in sections 26 and 27 of this Act.]

**Textual Amendments**

**F11** S. 27A inserted (21.5.1997) by 1997 c. 52, ss. 3, 4(2)

**Modifications etc. (not altering text)**

**C7** S. 27A: transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, Sch. 1 (with art. 7); S.I. 1998/3178, art. 3

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**Marginal Citations**

**M8** 1986 c. 60.

**M9** 1993 c. 48.

**F12**<sup>28</sup> .....

**Textual Amendments**

**F12** S. 28 repealed by Fire Services Act 1959 (c. 44), s. 9(3), **Sch.**

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**Changes to legislation:**

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